IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 383 Of 2003

IN

SUIT NO. 428 of 2003

Pukhraj D. Shrimal Jain .. Plaintiff

versus

Balakram H. Sutar .. Defendant

...

Mr.R.D. Dave i/b N.N. Vaishnawa for the plaintiff.

None for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 24th March 2005.

P.C.:

1. None present for the defendant even at the second call. Heard the learned counsel for the plaintiff.

2. This motion is taken out by the plaintiff in a suit for recovery of money lent and advanced by the

plaintiff to the defendant. The facts in so far as they are necessary for the purpose of this motion are stated below:

3. The plaintiff land and advanced to the defendant a loan against a pledge on certain ornaments. Subsequently, it was found that the ornaments were stolen property. The police therefore, seized the ornaments and therefore, plaintiff is left with no security. The plaintiff has filed this suit for recovery of the money advanced to the defendant.

4. By filing a supplementary affidavit dated 14th February 2005, the plaintiff has averred (paragraph no.7) that he has personal knowledge that the defendant is about to dispose of his property. Learned counsel submits that the defendant has disposed of one of his properties i.e. residential premises and the plaintiff apprehends that the defendant would dispose of his other properties also. The business premises of the defendant are kept closed and whereabouts of the defendant are not known. The defendant has not filed any affidavit rebutting these averments.

5. In the circumstances, motion is made absolute in terms of prayer clause (a). It is further directed that in the event the defendant fails to furnish security as prayer clause (a) within a period of four weeks, there shall be attachment of the property described in prayer clause (b) of the motion except the residential property no. b(ii).

5. Motion disposed of.

D.G. KARNIK, J